

EXAMINER'S AMENDMENT

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gordon Klancnik on 06/18/2010.

The application has been amended as follows:

Claim 1, line 8-10 is amended to read:

"such that when said air-impermeable sheet is operatively connected to said external ventricular surface of the heart, the air-impermeable sheet and the ventricular surface of the heart are sealed along a peripheral margin of the sheet, and a closed empty space is created between a lower surface of"

Claim 1, line 13 is amended to read:

"during a course of a cardiac cycle of said heart, thereby exerting an outward and normally"

Claim 6, lines 6-9 are amended to read:

"ascertaining that air-tight sealing of a peripheral margin of said sheet to an external ventricular wall has occurred, such that an outward and normally directed force may be exerted on the external ventricular surface of the heart due to changes in the volume of said space during the course of a cardiac cycle of said heart, and optionally, as required,"

The abstract, line 4, is amended to read:

"being operatively connected to the external ventricular surface of the heart using"

Reasons for Allowance

5. The following is an examiner's statement of reasons for allowance: the prior art fails to disclose or render obvious a *passive ventricular assist device (emphasis added)* which utilizes an air-impermeable sheet operatively attached to the ventricular surface

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which creates an empty space between the sheet and the surface of the ventricle; there is no active component involved. The fact that this space creates a negative pressure, or a pressure which applies forces in an outward manner effectively pulling on the surface of the cardiac muscle, allowing the cardiac chamber to fill more completely appears to be a novel concept.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Daskalakis (US 5,192,314) – discloses an intraventricular implant which is secured to the ventricular wall, this device is surgically inserted into place. However, Daskalakis does not disclose or render obvious a totally passive device attached to a ventricular surface, which creates an air-impermeable seal with the surface of the ventricle. Furthermore the Daskalakis device is internal to the ventricle whereas the disclosed invention is external.
- Grooters (US 5,131,905, previously cited) - discloses a shell type device which attaches to both ventricular outer surfaces to aid in pumping of blood. However, Grooters fails to disclose or render obvious a completely passive device for attaching an air-impermeable sheet to the surface of a ventricle to create an empty space.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAULA J. STICE whose telephone number is (571) 270-1478. The examiner can normally be reached on Monday - Friday 8AM-5PM, Est., alternating Friday's.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Layno can be reached on (571) 272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PAULA J. STICE/
Examiner, Art Unit 3766

/Carl H. Layno/
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Unit 3766